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Rep. Dale Sturtz, Chair
Rep. Ralph Foley
Sen. Patricia Miller, Vice Chair
Sen. Anita Bowser



Lay Members:

John von Arx
Jim Brewer
Mary Beth Bonaventura
Glenn Boyster
Robert Chamness
Steve Cradick
Chris Cunningham
Sharon Duke
Lance Hamner
Craig Hanks
Joe Hooker
Iris Kiesling
David Matsey
Dave Powell
Madonna Roach
Thomas Ryan

PROBATION SERVICES STUDY COMMITTEE

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Authority: P.L. 131-1998

MEETING MINUTES

Meeting Date: September 9, 1998
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington St.,
Room 404
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Rep. Dale Sturtz, Chair; Rep. Ralph Foley; John von Arx; Jim Brewer; Robert Chamness; Chris Cunningham; Lance Hamner; Craig Hanks; Madonna Roach; Joe Hooker; Iris Kiesling; David Matsey.

Members Absent: Sen. Anita Bowser; Sen. Patricia Miller, Vice-Chairperson; Glenn Boyster; Mary Beth Bonaventura; Sharon Duke; Thomas Ryan; Dave Powell.

Rep. Dale Sturtz brought the meeting to order at 1:25 p.m.

Testimony

George Keiser, Community Corrections Director, National Institute of Corrections, U.S. Department of Justice.

Mr. Keiser described his extensive background in criminal justice, including 13 years working in the correctional system as a community corrections system planner. He stated that the National Institute of Corrections (NIC) is a congressionally-created agency which researches state and local criminal justice systems and runs a training academy. The NIC recently issued a report on the parole and probation interstate compact which is experiencing serious problems.

Mr. Keiser stated that the single biggest problem for probation is a lack of clear expectations. State statutes are usually very broad and unfocused as to whether they refer to county or state jurisdictions. He added that policy makers need to articulate probation's mission regarding authority, financing, and direction. Mr. Keiser reported that probation generally acts in a sanction mode (i.e., law enforcement) or as a court service (i.e., social work). However, without defined purposes, effectiveness measures of probation are not possible.

Mr. Keiser pointed out that probation can also be viewed as a process or a product. A process view might measure probation's impact on the case flow of courts. A product approach would be interested in re-

arrest rates, court cost/restitution payments, community service, etc. Agreement on a particular viewpoint is required in developing measures that will satisfy those who approve probation funding and ensure a sufficient return on the investment. Mr. Keiser remarked that probation, as a part of community corrections systems, is often treated as a “financial shell game” in transferring costs among jurisdictions. He added that probation should be presented as an investment for which county government must decide how much results they are willing to buy. However, he reported, probation funding sources in most states are based more on history than on deliberation. For example, in Iowa local control has been maintained over state-funded programs even though corrections functions “have always been regarded as a state responsibility.”

Mr. Keiser remarked that, because there are few common definitions and systems vary widely among probation jurisdictions, it is difficult to compare states. Finding the “best probation programs” available is mostly a function of who is marketing their programs best. Also, there is little sense of capacity in probation programs. Probation workloads should be periodically reviewed as expectations for offenders become more focussed. Regarding structuring probation services, Mr. Keiser discussed a handout and commented that there is no magic structure.¹ The structure should be made to fit the intention of probation and its relationship to other agencies with which it must effectively deal.

Mr. Keiser next presented unpublished draft data from the most recent national probation census.² He expressed surprise over the high number of probation cases in Indiana when compared to other Midwestern states. He added that footnotes on Indiana statistics suggested that Indiana information is either not collected or is unavailable in the form obtained from other states. In order to measure the purposes of probation, information systems are necessary to generate meaningful information.

John von Arx thanked Mr. Keiser for his comments regarding the lack of knowledge of what probation funding actually provides. He asked how NIC evaluates requests for research assistance (in case the committee would make such a request). Mr. Keiser replied that many factors are considered: the state making the request; the stakeholders involved; competing interests; etc. In many jurisdictions probation is a local government issue, and NIC brings local players together to personally negotiate and define responsibilities of all players (e.g., judges, prosecutors, sheriffs, county commissioners, etc).

Rep. Sturtz asked if probation, overall, is effective. Mr. Keiser responded that taxpayers generally receive a good return for their investment. He cautioned however, that performance measures can mean different things. For example, probation revocations for technical violations (not the commission of new offenses) may mean success or failure. Sometimes technical violations become bad economics, e.g., when a probationer who is three months behind on his \$15 monthly fine technically violates probation and is jailed at a cost of \$100 a day. In other cases, a technical violation can save a costly prosecution. Rep. Sturtz commented that probation periods seem too long (five years or more) and the terms too strict. Mr. Keiser suggested that the correctional system is becoming the largest, fastest growing form of welfare, and some people should probably not be there.

Rep. Foley commented that Indiana seems to have a larger percentage of misdemeanor in probation than in other states, and he wondered if that was a good use of resources. Mr. Keiser replied that in states where probation is used as a sanction, the population is comprised of mostly serious felony offenders. To determine why Indiana may have so many more misdemeanor, an analysis of state statistics would consider factors such as: (1) how plea agreements affect felonies being reduced to misdemeanors; (2) the demographics of the offender population; and (3) what percentage of offenders are placed in community correction programs that might otherwise have been placed in probation.

¹Copies of documents are on file with the Legislative Information Center, in Room 230 of the State House. Contact Legislative Information by phone at (317) 232-9856 or by mail at 200 W. Washington St., Rm 230, Indianapolis, IN 46204-2789.

²Draft data from the 1996 national probation census, Bureau of Justice Statistics, U.S. Department of Justice. Copies of handouts are on file at the Legislative Information Center (see footnote 1).

Mr. von Arx responded that plea agreements have a significant impact on probation, and he wondered if there were jurisdictions that provide presentence investigations to prosecutors to assist in their making appropriate pleas. Mr. Keiser stated that he was not aware of any system where information is shared in such a way with the prosecution or defense. However, he added, several jurisdictions have gathered stakeholders together to establish policies regarding specific sanctions for certain types of offender populations. One state's program of sanctions segmented offenders and defined certain control or fee measures for certain offenses. Another state developed fine sanctions based on earning capacity. (Fine collection for that state grew from 25% to 95% of charges.) Mr. Keiser added that service functions have focussed on behavioral changes, involving cognitive learning, and substance abuse education. Probation has worked with mental health services in some community corrections programs to help stabilize and control persons with dually diagnosed disorders.

Doug Davis, Supervising U.S. Probation Officer, Southern District of Indiana

Mr. Davis distributed materials describing the federal probation system and informed the Committee of his experience in the federal prison and probation systems.³ He stated that federal probation is directed by national policy and workload measurement formulas. Local judges have control over hiring and practices in the 92 probation districts (and 60 pretrial offices) across the country. His Indianapolis office has a total of 25 staff, including 17 field officers, and it provides intensive supervision for about 600 people with an average officer caseload of 35-40. Their office conducts about 250 presentence reports and files about 150 violation reports annually. He added that federal officers specialize in certain areas, including the following: sentencing guidelines; mental health; and drug and alcohol treatment.

Mr. Davis defined federal probation as a clearing house of services where officers serve as "part-time cops and part-time social workers." He said that over the last ten years, federal sentencing guidelines have developed a very specific matrix of sentencing ranges with some discretion left to judges.

Jim Brewer asked about the hiring qualifications for federal probation officers. Mr. Davis stated that it varies among jurisdictions, with the basic requirement of a bachelor's degree with emphasis on social sciences. In Indianapolis, a master's degree is required. He noted that the base pay of \$37,000 (maximum of \$60,000) and merit increases for federal officers attracts many state probation officers to federal level.

Rep. Foley asked if federal officers customarily carry guns. Mr. Davis replied that most officers carry guns because persons under federal supervision generally have been involved in crimes dealing with drugs and guns. Officers receive firearms training twice a year. Rep. Foley requested that Mr. Davis supply the committee with federal probation statistics, e.g., the number of misdemeanor and felons.

Judge Matsey asked for an explanation of federal workload factors. Mr. Davis reviewed a document outlining formula-based workload ratios.⁴ Mr. Chamness asked if there are federal policies regarding the goals of probation. Mr. Davis replied that they have specific case plans, but no overall policy which describes goals.

Judge Matsey asked what lengths of probation are usually applied to offenders. Mr. Davis replied that three to five years is about average, though, rarely, some drug offenders may serve life on probation. Mr. Chamness asked what the turnover rate was for federal probation officers. Mr. Davis replied that it was very low. (In the last ten years, only two persons have left the Indianapolis office.) Mr. Chamness asked what kind of discretion was allowed to probation officers in revoking probation. Mr. Davis replied that repeated violations result in increasingly strict supervision measures, culminating in formal revocation and sentence modification or imprisonment.

³Copies of handouts are on file at the Legislative Information Center (see footnote 1).

⁴Copies of handouts are on file at the Legislative Information Center (see footnote 1).

Conclusion

David Matsey mentioned that data presented and committee discussion have dealt mainly with adults in probation, but there is a large juvenile probation population in Indiana that should also be considered.

Iris Kiesling noted that statistics in the Indiana Probation Report distributed at the last meeting seem to include community correction information. She stated that Monroe County has a combined community correction/probation program and their statistics appear inordinately different than counties with separate programs. Jeff Bercovitz, Indiana Judicial Center, suggested the need to reconcile any overlap or double counting with Department of Correction staff.

There being no further business, the meeting ended at 2:48 p.m.